REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Rejections under 35 U.S.C. § 103

(i)   claims 1-7, 9-18, 20-26, 29, 31-48, 51 and 53-56

Claims 1-7, 9-18, 20-26, 29, 31-48, 51 and 53-56 stand rejected under 35 U.S.C. 103(a) as unpatentable over So's U.S. Pub. Pat. Appl. No. 2002/0109879 A1 ("So") in view of Enoki et al.'s U.S. Pub. Pat. Appl. No. 2002/0057691 A1 ("Enoki"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

As presently understood by the Applicants it appears in the first part of the Examiner's response that the Examiner again acknowledges that So does not disclose a device which itself generates a backward path request message. To make up for this deficiency the Examiner again appears to rely on Enoki. That said, in the "Response to Arguments" section the Examiner appears to rely on So. The Applicants respectfully request clarification of the Examiner's position.

Assuming that the Examiner is relying upon Enoki the Examiner appears to take the position that even though neither one of So nor Enoki disclose the generation of a backward path request message, the fact that they transmit such a message is enough. Said another way, the Examiner takes the position that "transmit" includes "generate". As

the Applicants have pointed out previously, this is incorrect. More particularly, that the

transmission of a label request message S26 by an LSR 3 necessarily means that the

LSR3 generates S26. This is incorrect.

The Applicants respectfully reiterate that those of ordinary skill in the art

recognize a distinction between the act of **generating** and the act of **transmitting**.

Further, the Applicants submit that Enoki just provides for a terminal device capable of

transmitting a backward path based on the "bidirectional setup" information received

from LSR 1; there is not disclosure within Enoki that the "LSR 3" router is capable of

independently ("by itself") generating a backward path. Enoki provides:

> [0143] It is to be noted that FIG. 15 shows a sequence of the bidirectional
> LSP setup message in the embodiment (2). In case an external request S20
> of setting up 1 Mbps LSP between the terminals "A" and "B" is made to
> the LSR 1, the **LSR 1 transmits a label request message S21 in which the
> bidirectional setup and the down direction (from terminal "B" to "A")
> bandwidth designation of 1 Mbps are set** in the vendor-private TLV to the
> LSR 2.
>
> [0144] The LSR 2 which has received the message S21 transmits the label
> request message S22 similar to the message S21 to the LSR 3.
>
> [0145] The LSR 3 performs the process for the bidirectional LSP setup
> **based on the vendor-private TLV within the label request message S22**.
> At this time, the LSR 3 stores the correspondence of the bidirectional LSP
> ID's and performs a down direction LSP setup S23 **with the designated
> bandwidth (1 Mbps)**.

Enoki, paras. [0143]-[0145] (emphasis added).

Applicants contend, therefore, that one of ordinary skill in the art would

understand that Enoki teaches that the down direction information is provided to the

device from external (downstream) sources; it is not generated by Enoki..

In more detail, in Enoki the characteristics of the "backward" or "down direction"

path are defined by the "setup request" received from LSR 1 without any modification or

independent action by the receiving unit in defining the "down direction" parameters.

Applicants further note that this understanding of Enoki is reinforced by Enoki's

characterization of the invention as comprising:

> . . . a bidirectional LSP setup accepting portion for *accepting an external bidirectional LSP setup request*, a bidirectional LSP setup TLV preparing portion for *preparing a bidirectional LSP setup TLV included in a bidirectional setup label request message transmitted in an up direction* to a label switching router placed at another end of the LSP based on the bidirectional LSP setup request, a bidirectional LSP setup TLV analyzer for analyzing the bidirectional LSP setup TLV in the message when the message is received from the label switching router at the other end, a bidirectional LSP processor for performing an LSP setup request in a down direction as opposed to the up direction *based on the analyzed result by the bidirectional LSP setup TLV analyzer*, and an explicit route preparing portion for preparing an explicit route on which a router to be relayed in the down direction is prescribed, *based on an explicit route preparing request from the bidirectional LSP processor*, based on the CRLDP, and for notifying the prepared route to the bidirectional LSP processor.

Enoki, para. [0034] (emphasis added).

Applicants note that claim 1 states that the network device is operable in a manner

such that the device can:

. . . independently generate and send a backward path request message to a source of a separately generated, initial *forward path request message* associated with a forward Label Switched Path (LSP) between the device and the source . . . . (emphasis added)

Applicants further contend that the cited portions of Enoki cannot fairly be characterized as providing for the "independent" generation of the "backward path" as recited in the pending claims. Indeed, with respect to backward path generation, Enoki's "LSR 3" router may be more fairly characterized as a "slave" unit that merely utilizes the routing information from the received *bidirectional* setup.

Applicants contend, therefore, that the proposed combination of So and Enoki references are not sufficient to teach or suggest each element of the pending claims as required for a rejection under 35 U.S.C. § 103. Furthermore, Applicants contend that one of ordinary skill in the art relying on the So and Enoki references would not be led to the functional modifications necessary to achieve the claimed inventions.

(ii)   additional comments regarding claim 2

With respect to claim 2, the Examiner suggests that So discloses a device capable of generating and sending an "initial, forward path reservation message to the source in order to establish the forward LSP after receiving the initial forward path request message." Applicants disagree. Instead, the Applicants suggest that in the cited portions of the So reference relied on by the Examiner an initial request from a "source" provides information for a forward path rather than having path information be generated in the receiving or "last-hop router." In response, the Examiner states that she "does not

interpret the device is [sic] only in the receiving side" (page 9 of Action). The Applicants

respectfully remind the Examiner that while claims may be interpreted broadly, any

interpretation must be consistent with the specification. *In re Hyatt*, 211 F.3d 1367, 1372

(Fed. Cir. 2000). . In sum, the Examiner's interpretation of the claims as including

devices located at the transmission side is inconsistent with the specification.

(iii)   additional comments regarding claims 5-7, 13 and 14

With regard to claims 5-7, 13 and 14 the Applicants note that the Examiner has

not addressed the points raised by the Applicants in their last response. The Applicants

respectfully request that the Examine either address these points or allow these claims.

(iv)   additional comments regarding claim 12

In their last response the Applicants pointed out that the specific citation from So

(para. [0320]) does not teach or suggest a QoS indicator. In response, the Examiner takes

the position that "jitter" is a parameter of QoS. Whether or not jitter may, or may not, be

a parameter of QoS is immaterial. What is material is that the jitter described in So is not

used as a traffic parameter that is used to generate backward path request messages.

(v)   additional comments regarding claims 15 and 16

In the Applicants last response they pointed out that paragraphs [570] and [572] of So do not teach or suggest a network device that is "operable to send the first delete path message ...." . In response, the Examiner refers the Applicants to paragraphs [615] of So stating that this paragraph "mentions deleting". However, the claimed inventions are directed at the deletion of path messages. In contrast, So is directed at the deletion of light paths.

(vi)   additional comments regarding claims 17, 18 and 20-22

With respect to claims 17, 18 and 20-22, the Applicants once again incorporate the discussion above (and from their previous responses) with regard to the "generation" function attributed to the cited portions of the Enoki reference. In particular, Applicants maintain that the "bidirectional LSP setup message" provides the information for the LSP to the node and that there is no teaching or suggestion of independent "generation" of path data at the network device in response to a backward path request or other message from the destination.

(vii)   additional comments regarding claims 23-26, 29, 31-48, 51 and 53-56

With regard to claims 23-26, 29, 31-48, 51 and 53-56, the Applicants once again incorporate the discussion above (and from their previous responses) with respect to the applicability of So and Enoki to the preceding claims and contend that the method and means claims are allowable for at least the same reasons. In particular, Applicants

contend that the cited portions of the So and Enoki references do not clearly support the associated contention(s) with regard to the teachings as understood by one of ordinary skill in the art. Applicants maintain, therefore, that until some substantive explanation is provided as to exactly how the cited text supports the pending rejection, Applicants have not been afforded a full and fair opportunity to understand and address the Examiner's technical interpretation and reasoning.

Applicants request that the pending rejections be reconsidered and withdrawn accordingly.

CONCLUSION

In view of the above remarks, the Applicants respectfully submit that each of the pending rejections has been addressed and overcome, leaving the present application in condition for allowance. A Notice to that effect is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

If necessary, the Commissioner is hereby authorized in this, concurrent, and

future replies to charge any underpayment or non-payment of any fees required under 37

C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account

No. 50-3777, including, in particular, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC

By: /John E. Curtin/
      John E. Curtin, Reg. No. 37,602
      P.O. Box 1995
      Vienna, VA 22183